

Elaine T. Byszewski (SBN 222304)
Lee M. Gordon (SBN 174168)
HAGENS BERMAN SOBOL SHAPIRO LLP
301 North Lake Avenue, Suite 203
Pasadena, CA 91101
Tel. (213) 330-7150
Fax (213) 330-7152
E-mail: elaine@hbsslaw.com

Robert B. Carey (*pro hac vice*)
HAGENS BERMAN SOBOL SHAPIRO LLP
11 West Jefferson Street, Suite 1000
Phoenix, AZ 85003
Tel. (602) 840-5900
Fax (602) 840-3012

Steve W. Berman (*pro hac vice*)
HAGENS BERMAN SOBOL SHAPIRO LLP
1918 Eighth Avenue, Suite 3300
Seattle, WA 98101
Tel. (206) 623-7292
Fax (206) 623-0594

Attorneys for Plaintiffs and the Class

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CHRISTOPHER KEARNEY, NANCY
KEARNEY, CHARLES MOORE, and
SHARI MOORE,

Plaintiffs,

V.

HYUNDAI MOTOR AMERICA

Defendant.

No. SACV09-01298 JST (MLGx)

**SUPPLEMENTAL DECLARATION
OF ROBERT B. CAREY IN
SUPPORT OF MOTION FOR AN
AWARD OF ATTORNEYS' FEES,
EXPENSES, AND INCENTIVE
AWARD PAYMENTS, PURSUANT
TO THE COURT'S JUNE 7, 2013
ORDER**

CLASS ACTION

Hon. Josephine Staton Tucker

1 I, Robert B. Carey, declare:

2 1. I am an attorney admitted *pro hac vice* before this Court. I am a partner
 3 at the law firm of Hagens Berman Sobol Shapiro LLP (“Hagens Berman”) and
 4 counsel for plaintiffs Christopher Kearney, Nancy Kearney, Charles Moore, and
 5 Shari Moore. Steve W. Berman¹ and I² were appointed by the Court as settlement
 6 class counsel (“Class Counsel”) in this matter on December 17, 2012. (Dkt. 91 at 12,
 7 25-26.) I am submitting this supplemental declaration in support of Class Counsel’s
 8 application for an award of attorneys’ fees, expenses, and incentive awards in
 9 connection with services rendered in the above-entitled action to provide an update
 10 regarding attorneys’ fees to the Court pursuant to the Court’s June 7, 2013 Order.
 11 (Dkt. 129.)

12 2. On August 28, 2012, the parties participated in a mediation session with
 13 the Honorable Stephen J. Sundvold (Ret.) in Orange, California, regarding an award
 14 of attorneys’ fees and expenses for Class Counsel—the mediation took place *after*
 15 the Settlement Agreement was signed. Based on Judge Sundvold’s “mediator’s
 16 recommendation” and additional discussion between the parties, HMA agreed to pay
 17 Class Counsel a total of \$993,000.00 in attorneys’ fees and expenses and \$2,500 to
 18

19 ¹ See Declaration of Steve W. Berman regarding Adequacy of Counsel to
 20 Represent Class (Dkt. 88).

21 ² See Declarations of Robert B. Carey in support of (i) Joint Motion for
 22 Preliminary Approval of Class Settlement (Dkt. 73-3); (ii) Supplemental Brief
 23 regarding Adequacy of Counsel to Represent Class (Dkt. 79-1); (iii) Motion for
 24 Certification of a Settlement Class (Dkt. 81); (iv) Adequacy of Counsel to Represent
 25 Class (Dkt. 87); (v) Joint Motion for Final Approval of Class Settlement (Dkt. 96);
 26 (vi) Motion for an Award of Attorneys’ Fees, Expenses, and Incentive Award
 27 Payments (Dkt. 97-4, 131-3); (vii) Plaintiffs’ Supplemental Memorandum of Law
 regarding Class Members’ Support of the Settlement (Dkt. 120, 124); and
 (viii) Plaintiffs’ Supplemental Brief in Response to Court’s Order regarding *In re HP
 Inkjet Printer Litigation* (Dkt. 127).

1 each of the four Class Representatives as an incentive award for their time and effort
 2 in participating in the litigation—the incentive awards are not included in the fee-
 3 and-expense award.

4 3. The total number of hours spent on this Litigation by Class Counsel is
 5 1864.80 with another 535 hours anticipated to reach the end of the Litigation. These
 6 535 hours comprise approximately 212 hours of attorney time and 323 hours of
 7 paralegal time (the parties estimate Class Counsel will need the equivalent of three
 8 full-time paralegals for three months to attend to the post-settlement aspects of the
 9 litigation). The total lodestar amount for attorney/professional time based on the
 10 firm's hourly rate is currently \$776,707.50, with the total final lodestar amount
 11 expected to be \$922,605.00. The hourly rates shown below are the usual and
 12 customary rates charged for each individual in all of our cases. A breakdown of the
 13 lodestar is as follows:

NAME	RATE	HOURS	AMOUNT
Leonard Aragon	460.00	4.00	\$ 1,840.00
Camille Bass	375.00	547.40	205,275.00
Steve Berman	800.00	28.80	23,040.00
Jeniphr Breckenridge	500.00	23.20	11,600.00
Elaine Byszewski	500.00	5.10	2,550.00
Rob Carey	650.00	368.20	239,330.00
Jennifer Conte	150.00	0.50	75.00
John DeStefano	395.00	20.50	8,097.50

1	NAME	RATE	HOURS	AMOUNT
2	Suzanne Ferris	150.00	30.90	4,635.00
3	Carrie Flexer	190.00	3.20	608.00
4	Audrey Froehlich	150.00	157.70	23,655.00
5	Lee Gordon	575.00	1.30	747.50
6	Lisa Hasselman	550.00	136.70	75,185.00
7	Cindy Johnson	150.00	98.30	14,745.00
8	Larry Kunzler	170.00	1.50	255.00
9	Brian Miller	150.00	10.30	1,545.00
10	Chris O'Hara	500.00	1.10	550.00
11	Georgia O'Neill	150.00	3.30	495.00
12	Marci Perkins	150.00	10.30	1,545.00
13	Andy St. John	340.00	0.30	102.00
14	Lauren Uhler	150.00	12.10	1,815.00
15	Etta Walters	325.00	88.00	28,600.00
16	Ellen Weber	150.00	1.00	150.00
17	Amy Wilkins	425.00	305.10	129,667.50
18	Aniela Wisniewski	100.00	6.00	600.00

23
 24 4. My firm incurred a total of \$47,419.10 in expenses in connection with
 25 the prosecution of this Litigation. They are broken down as follows:
 26
 27
 28

EXPENSE	AMOUNT
LexisNexis legal research	\$ 2,186.18
Photocopies	407.66
Messenger/Process Service	2,310.79
UPS/FedEx	145.10
Certificates of Good Standing	64.00
Travel (airfare, hotel, etc.)	11,281.56
<i>Pro hac vice</i> filing fees	875.00
Mediation	3,132.50
Electronic discovery	11,000.00
Contract lawyers	7,890.00
Investigation	7,920.96
Fax	8.00
Long distance phone	45.79
Pacer	151.56
Total	\$47,419.10

Class Counsel estimates that it will expend approximately \$10,500.00 more in costs before the close of the Litigation for items such as phone calls and correspondence with Class Members regarding participation in the potential refund/exchange program and arbitration, and photocopies.

1 5. The expenses pertaining to this case are reflected in the books and
2 records of this firm. These books and records are prepared from expense vouchers,
3 check records, and other documents and are an accurate record of the expenses.
4

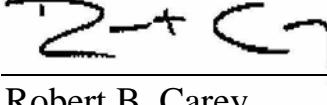
5 6. Attached to this declaration as Exhibit A is a true and correct copy of
6 Class Counsel's billing statement for the fees and costs expended in this Litigation
7 up to and including June 19, 2013.

8 7. If the Settlement is granted final approval, Class Counsel and opposing
9 counsel will have to attend to the issues that will arise during administration of the
10 Settlement, field inquiries from Class Members regarding the Settlement, and walk
11 Class Members through the buyback/exchange and arbitration processes. Class
12 Counsel estimates an additional 535 hours necessary to conclude the Litigation. The
13 estimated total lodestar and cost amount to conclude this Litigation is \$980,460.71.
14

15 8. If the Court opts to award a multiplier instead of Class Counsel's
16 expected final lodestar, that multiplier would likely be between 1.2 and 1.3, which is
17 well below the 3-4 multipliers commonly approved in this Circuit for similar cases.
18 *See Vizcaino v. Microsoft Corp.*, 290 F.3d 1043, 1051 (9th Cir. 2002); *Van Vranken*
19 *v. Atlantic Richfield Co.*, 901 F. Supp. 294, 298 (N.D. Cal. 1995). (Dkt. 97-1 at 3, 17,
20 20-22; 131 at 3, 17, 21-22.)
21

22 I declare under penalty of perjury under the laws of the United States that the
23 foregoing is true and correct.
24

1 Executed this 20th day of June, 2013 in Phoenix, Arizona.
2
3
4


Robert B. Carey

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28